

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MELISSA CONTE,

Plaintiff,

-v-

No. 05 Civ. 10468 (LTS)(RLE)

MANHATTAN DENTAL ARTS, et al.,

Defendant.

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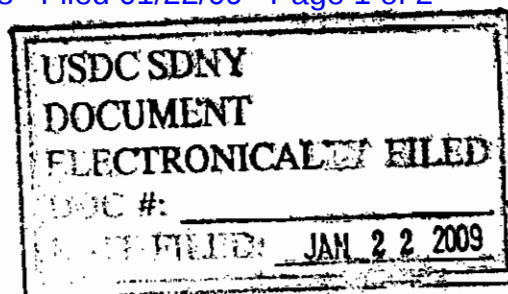
LAURA TAYLOR SWAIN, United States District Judge

**ORDER ADOPTING REPORT & RECOMMENDATION**

The Court has reviewed Magistrate Judge Ellis's December 17, 2008, Report and Recommendation (the "Report") which recommends that Defendant's motion to dismiss the action for failure to prosecute be denied. No objections to the Report have been received.

In reviewing a report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (West 1993). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Johnson v. New York University School of Education, No. 00 Civ. 8117, at \*1, 2003 WL 21433443 (S.D.N.Y. June 16, 2003).

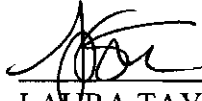
The Court has reviewed carefully Magistrate Judge Ellis's Report and Recommendation and finds no clear error. The Court therefore adopts the Report in its entirety for the reasons stated therein. Accordingly, Defendant's motion to dismiss the action is denied with leave to refile should Plaintiff, now pro se, fail to comply with her discovery



responsibilities.

SO ORDERED.

Dated: New York, New York  
January 22, 2009



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LAURA TAYLOR SWAIN  
United States District Judge